

**FAYETTEVILLE CITY COUNCIL
WORK SESSION MINUTES
LAFAYETTE ROOM
FEBRUARY 7, 2011
5:00 P.M.**

Present: Mayor Anthony G. Chavonne

Council Members Keith Bates, Sr. (District 1); Robert A. Massey, Jr. (District 3); Darrell J. Haire (District 4); Bobby Hurst (District 5); William J. L. Crisp (District 6); Valencia A. Applewhite (District 7); Theodore W. Mohn (District 8); James W. Arp, Jr. (District 9)

Absent: Council Member Kady-Ann Davy (District 2)

Others Present:

Dale E. Iman, City Manager

Doug Hewett, Assistant City Manager

Kristoff Bauer, Assistant City Manager

Karen M. McDonald, City Attorney

Lisa Smith, Chief Financial Officer

John Kuhls, Human Resource Development Director

Jeffery Brown, Engineering and Infrastructure Director

Michael Gibson, Parks and Recreation Director

Victor Sharpe, Community Development Director

Karen Hilton, Planning and Zoning Manager

James Rose, PWC Chief Administrative Officer

Gloria Wrench, PWC Purchasing Manager

Rebecca Rogers Carter, Management Services Manager

Deborah Mintz, Executive Director, Arts Council of Fayetteville/Cumberland County

Members of the Press

1.0 CALL TO ORDER

Mayor Chavonne called the meeting to order.

2.0 INVOCATION

The invocation was offered by Mayor Pro Tem Haire.

3.0 APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Haire moved to approve the agenda with the addition of Item 5.0, a closed session for consultation with the City Attorney, and renumbering Item 5.0 to 5.1.

SECOND: Council Member Bates

VOTE: UNANIMOUS (9-0)

4.0 OTHER ITEMS OF BUSINESS

4.1 City Council Policy 135.1 - Non-Profit Funding

Mr. Dale Iman, City Manager, presented this item and stated the policy was reviewed and discussed at the last work session at which time Council directed staff to review the processes used by the Arts Council and the Community Development Department. Mr. Iman recognized Ms. Deborah Mintz, Executive Director, Arts Council of Fayetteville/ Cumberland County, and Mr. Victor Sharpe, Community Development Director.

(a) Arts Council Distribute Funding Process for Arts and Cultural Services

Ms. Deborah Mintz, Executive Director, Arts Council of Fayetteville/Cumberland County, presented this item and provided background information. She stated the North Carolina Legislature recognized the importance of arts in all communities and created the "Grass Roots Arts Funding" legislation and the Arts Council was created to provide services and distribute funds on behalf of the state specifically. She stated that due to nonprofits approaching both the City and County for funding, in 1993 the funding process was streamlined by allowing the Arts Council to distribute funding on behalf of the City and County. She explained the grant categories and stated operating support and special project grants were matched dollar to dollar. She stated the Arts Council partnered with Cumberland County public and private

schools, Fort Bragg schools, and local arts agencies to build collaborations between schools and cultural resources. She stated project support funding was available to all 501(c)(3) local nonprofit agencies, educational institutions, and government entities in Cumberland County who produce programs of artistic and cultural merit. She stated \$10,000.00 was provided to the Fayetteville/Cumberland County Parks and Recreation Department for after-school programs. Mayor Pro Tem Haire inquired how agencies were notified of the available grants. Ms. Mintz responded through press releases, the Arts Council website, and postcards mailed to all local registered nonprofits.

Council Member Crisp inquired how the funds were distributed. Ms. Mintz responded agencies receive up to 80 percent of the awarded fees upon execution of all required contracts and supporting documents and 20 percent upon approval of the agency's final report by the Arts Council.

Council Member Crisp inquired what the impact would be if the City did not provide the funding to the Arts Council. Ms. Mintz responded it would affect those services provided by the Arts Council and provided by those agencies with whom they contract to provide services.

A discussion period ensued regarding the use of funds from the occupancy tax with Ms. Mintz explaining that any funding received from the occupancy tax would have to be used for tourism related projects.

(b) Community Development's Nonprofit Funding Application Process

Mr. Victor Sharpe, Community Development Director, presented this item and stated a Consolidated Plan was adopted by Council every five years setting goals and priorities in the areas of housing, community development, economic development, and homelessness. He stated the Annual Action Plans were part of the Consolidated Plan process and contained the programs being funded. He explained part of the process dealt with Community Development having a public and private partnership with nonprofit agencies whereby each year they send out requests for proposal. He stated the Consolidated Plan was the guiding force for the types of projects they would look at. Mr. Sharpe explained community development funding included contracting with providers to provide job skills training and job counseling, household budget counseling services, and personal finance workshops.

Mr. Sharpe explained the organizations were rated through a Risk Analysis Matrix based on program complexity, sub-recipient capacity, recent problems, and past on-site monitoring. He stated the recommended projects would then be forwarded to the Fayetteville Redevelopment Commission as part of the Annual Action Plan, then to City Council for final approval. He stated it was a HUD requirement that sub-recipients be monitored annually. He stated the same process was used for developer funding but was more competitive.

Mayor Pro Tem Haire inquired how organizations were notified of the available funding. Mr. Sharpe responded notification was through a block ad in the newspaper and direct mailing to the nonprofits.

A question and answer period ensued regarding the rating of applications and funding availability with Mr. Sharpe explaining after rating the applications, they review the available funding. He stated they were not always able to recommend the full amount being requested. Discussion ensued regarding placing more information on the City's website and what would be eligible for community development funding.

Council Member Massey requested staff study the current policy and make it consistent with the current practices of the Arts Council and Community Development Department. Mr. Iman explained the law had changed and the local policy was not changed to reflect the change of the occupancy tax.

Consensus of Council was to update the current policy consistent with the current practice and improve communication and publicity.

4.2 Revision to the Purchasing Policy for Local Business Support

Ms. Karen McDonald, City Attorney, presented this item. She presented background information and stated Council had requested that the policy be brought back with PWC staff available for questions. She recognized the members of the PWC staff in attendance.

Mr. James Rose, PWC Chief Administrative Officer, stated they reviewed the policy adopted by the County and there was an issue with the statement “to the greatest extent possible” being somewhat vague. He stated they buy different types of products and services and some of the transactions were governed by state statutes. He explained there were no statutes governing services unless it was architectural, engineering, and surveying services. He further explained there was a special statute that stated you could make awards for those services without regard to price. He stated there were statutes for material supplies and equipment and those between \$30,000.00 and \$90,000.00 would be an informal contract and would not have to get prices. He stated anything over \$90,000.00 in that category would have to entertain formal bids. He stated with construction, the threshold was from \$30,000.00 to \$500,000.00 which was informal and anything over \$500,000.00 was in the formal category. He stated if a 5 percent discount were imposed, then neighboring cities could do that, and this would then put the City in a position of a vendor that not only supplies the Fayetteville market but also other counties and cities.

Mayor Pro Tem Haire requested clarification on the vague statement of “to the greatest extent possible”. Mr. Rose clarified the verbiage was fine but that he would add a section that would make it clear that they were not talking about architectural, engineering, and surveying services. He stated he would advise that the policy be reviewed more.

Mayor Pro Tem Haire inquired if they could allow a preference on what goes out to bid. Mr. Rose responded it would be anything under \$30,000.00. He stated the general statute makes a distinction between formal and informal contracts. He stated formal contracts would be the ones that were brought to the Public Works Commission and City Council for approval which would be for purchase of material, supplies, equipment, and construction and they would be formally bid. He explained \$30,000.00 or less would be for materials, supplies, equipment, and construction. He stated PWC staff polled the School of Government who stated the percentage should be no more than 5 percent for those contracts under \$30,000.00.

Council Member Arp inquired if other municipalities had the 5 percent policy in place.

Ms. McDonald responded she researched this issue in May and that she did not find any policies. She stated at that time, the impetus for this was the governor’s executive order for which the governor initiated a “price matching”. She explained if a vendor placed a bid and a local vendor were to bid within 5 percent, then they would have the opportunity to match that price. She stated at that time interest was expressed by Council to initiate a program such as that at the local level. However, research indicated it was not permissible for municipalities to do so. She stated the County adopted their policy and therefore the question was whether Council was interested in adopting a similar policy.

Mr. Rose suggested they not take any action and do another study to see if other municipalities have changed.

Consensus of Council was to direct staff to conduct a survey on other municipalities.

4.3 Equal Employment Opportunity (EEO) Report/Recruitment Process Update

Mr. John Kuhls, Human Resource Development Director, presented this item and provided an overview of the Equal Employment Opportunity Report to include recruitment and career builder efforts, new employee orientations, practices and policies working with departments, and assessment centers.

A question and answer period ensued regarding being more diversified.

No action was taken on this item.

4.4 Street Paving Selection Process

Mr. Jeffery Brown, Engineering and Infrastructure Director, presented this item and provided an overview of the survey process and the City’s current practices. He stated a pavement condition survey would be completed this fiscal year to determine the pavement condition rating on all City-maintained streets. He stated streets would be selected for resurfacing based on the assigned rating on the survey. He stated the last pavement evaluation survey was conducted in 2006. He stated the survey would be on all City streets which totaled 724 miles. He provided information on the conditions of the streets, the different seals, utilities, and re-patching.

A question and answer period ensued regarding the affects on utilities, quality of patch jobs, and inspection requirements.

Mr. Brown stated the survey would be completed by July and presented to Council.

No action was taken on this item.

4.5 Maintenance Standards for Private Streets

Mr. Jeffery Brown, Engineering and Infrastructure Director, presented this item and provided an overview of the issues for private streets to include emergency vehicle access, residential garbage collection, lack of maintenance, and no right-of-way being associated with the streets. He presented the required standards before the City would accept maintenance of the streets. A question and answer period ensued regarding right-of-way ownership with Mr. Brown explaining the right-of-way could be dedicated but not accepted by anyone for maintenance. He further explained the owner that dedicated the right-of-way with the initial plat would be the legal owner of the street unless there was a homeowners association making the homeowners responsible for the right-of-way. He stated there was no other way to enforce street maintenance on private streets unless the City acquired the necessary right-of-way which could require condemnation.

Mayor Chavonne inquired if there was a minimum standard for private streets to provide public safety access. Mr. Brown responded it was impossible to enforce such standards. Ms. Karen McDonald, City Attorney, explained it would be difficult to enforce minimum standards through litigation. She explained if lawsuits were initiated against the property owners for compliance of minimum standards, the owners could still not maintain the property and a judgment would be entered which would result in a lien against the property and no compliance. She stated the other option would be condemning the property for compliance.

Concerns were raised and discussion ensued regarding access not being available to emergency vehicles. Ms. Karen McDonald stated if Council wanted staff to identify the streets, they could initiate litigation to do that or they could initiate condemnation to try to acquire it but there was no easy answer.

Consensus of Council was to direct the City Attorney to research the options further.

4.6 UDO Zoning Implementation Process Update

Ms. Karen Hilton, Planning and Zoning Manager, presented this item. She provided background information and stated the primary task of the implementation would be the remapping of approximately 76,000 parcels in the City. She provided an update on the process and timeline. She stated they would begin distributing public information in March using every means available, such as television, newspaper, flyers, posters, etc., which would provide information on the uses and standards. She stated they would also hold several public meetings.

Consensus of Council was to direct staff to provide Council with electronic copies of all UDO power points presented to Council to date.

4.7 Site Solutions Proposal for Assisting with Bond Package

Mr. Michael Gibson, Parks and Recreation Director, presented this item and provided background information. He stated in 2006, Site Solutions assisted the City in the development of the Parks and Recreation Master Plan (Master Plan) and they were again recommending the use of Site Solutions to assist with the development of the bond package that would promote the park expansion and improvements identified in the Master Plan. He stated there were 15 projects identified in the bond package and each project would address the following 12 elements: operational objectives, user demographics, operational costs, initial fee assumptions, other revenue, operational cost, construction cost, service areas, vicinity maps, prototype plan, staffing, and Council districts.

A discussion period ensued regarding the projects.

Consensus of Council was to direct staff to provide Council with a list of the projects and conduct a similar discussion with the County.

Mr. Dale Iman, City Manager, inquired if the funding would come back to Council. Mr. Gibson stated the projected total cost of the contract would be between \$48,000.00 and \$49,000.00.

Mr. Iman inquired if the contract was on the next agenda. Mr. Gibson responded in the

affirmative.

No action was taken on this item.

4.8 Revenue and Expenditure Report for Annually Budgeted Funds for the Four-Month Period Ended October 31, 2010 and 2009

Ms. Lisa Smith, Chief Financial Officer, presented this item. She reviewed key points from the reports and explained the difference between the actual, annual, and allocated budgets.

Discussion and a question and answer period ensued regarding the information in the reports.

No action was taken on this item.

4.9 Council Member Request(s): (In order of receipt date)

(a) Council Member Mohn - Revise Council Policy 115.11, Replacing a Vacancy on the City Council

Council Member Mohn presented this item and stated he felt there was confusion with the existing policy stating 30 days from the date of vacancy and would like to revise the policy to set out the procedures that were followed during the recent vacancy for use by future Councils.

Discussion ensued regarding the flexibility of the policy, the definition of event, and the requirements of state statute.

Council Member Mohn requested that staff revise the policy outlining the procedure that the Council took to appoint Mr. Arp with the understanding that future Councils may or may not follow it and to define the event.

Council Member Mohn's request did not receive the necessary support.

No action was taken on this item.

(b) Mayor Chavonne - Request to Study a Reduction in Sewer Extension Schedule for Phase V Annexation Areas

Mayor Chavonne presented this item and stated he was requesting a study to request staff and PWC to look at the current model for sewer extension to see if that extension could be scheduled to be shortened, i.e., do more in a shorter period of time.

Consensus of Council was to direct staff to proceed with the study.

(c) Mayor Chavonne - Request to Study a Reduction in the 8 Percent Interest Rate for Sewer Assessments

Mayor Chavonne presented this item and stated he was requesting a study on the reduction of the 8 percent interest rate for sewer assessments.

Consensus of Council was to direct staff to proceed with the study.

5.0 Closed Session for Consultation with the City Attorney

MOTION: Mayor Pro Tem Haire moved to go into closed session for consultation with the City Attorney.

SECOND: Council Member Mohn

VOTE: UNANIMOUS (10-0)

The regular session recessed for the closed session and the regular session reconvened after the closed session.

5.1 ADJOURNMENT

There being no further business, the meeting adjourned.